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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 vs.
14 SONIA RODRIGUEZ,
15 Defendant.

16 CASE NO. 14CR0631-LAB

17 **ORDER DENYING MOTION FOR**
18 **REDUCTION OF SENTENCE UNDER**
19 **18 U.S.C. § 3582(c)(2)**

20 This Court sentenced Sonia Rodriguez to 108 months in prison in 2014 after she pled
21 guilty to conspiring to distribute 11.58 kilograms of pure methamphetamine. She's now filed
22 a motion under 18 U.S.C. § 3582(c)(2) asking the Court to reduce her sentence because the
23 advisory sentencing range for her crime under the United States Sentencing Guidelines
24 ("Guidelines") was lowered after she was sentenced.

25 The Court originally calculated Ms. Rodriguez's Guidelines as follows:

26 Base Level:	38
27 Specific Offense Characteristic (§ 2D1.1(b)(5)):	+2
28 Acceptance of Responsibility downward adjustment (§ 3E1.1(a)(b)):	-3
29 Fast Track Departure (§ 5K3.1):	-4

30 Her Adjusted Offense Level was 33, and with a Criminal History Category of VI, her
31 advisory Guideline range was 235-240. For a variety of reasons – including, in particular,

1 Ms. Rodriguez's then existing health problems – the Court varied from the low end of the
2 Guideline range by 127 months, imposing a 108 month sentence.

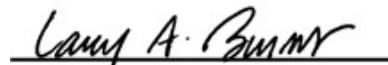
3 Under § 3582(c)(2), departures or variances from the original Guideline sentence
4 based on factors other than substantial assistance are not counted when calculating a
5 defendant's revised Guidelines. See *United States v. Aragon-Rodriguez*, 624 Fed. Appx.
6 542, *3, 2015 U.S. App. LEXIS 21377 (9th Cir. Nov. 19, 2015) (the only Chapter Five
7 departure that counts in calculating a defendant's revised Guideline range under § 3582(c)
8 is for substantial assistance).

9 Ms. Rodriguez is eligible for a reduction of sentence under § 3582(c) only if the low
10 end of her revised Guideline range is lower than her original sentence. Here it is not. When
11 the Fast Track departure and the 108-month variance are backed out of the revised
12 Guideline calculations as they must be, the low end of Ms. Rodriguez's revised Guideline
13 range is higher than the sentence the Court imposed.

14 Ms. Rodriguez is therefore not eligible for a sentence reduction under section 3582(c).
15 Her Motion is **DENIED**.

16 **IT IS SO ORDERED.**

17 DATED: July 31, 2018

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19 HONORABLE LARRY ALAN BURNS
20 United States District Judge
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